HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.10656 of 1999

Dated 4th day of April, 2007

Between:

M. Guruvareddy
and another ..
Petitioners

And

The Mandal Revenue Officer,
Tharlupadu, Prakasam District
and another ..
Respondents

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O R D E R:

This writ petition is filed seeking a mandamus to declare the distraint order, dated 23.11.1998 of the 1st respondent-Mandal Revenue Officer and his action in attaching the petitioners' properties and putting them to public sale, as illegal and arbitrary.

The brief facts of the case are that the father of the petitioners was holding mining lease of Manganees from 25.7.1960 to 26.9.1966 in an unsurveyed area of Ac.88.30 cents situated in Pothavaram village. Later, their father passed away and the mining lease was closed after his paying all the dues. Now, the petitioners' grievance is that the 1st respondent passed the distraint order dated 23.11.1998 under Section 8 of the Revenue Recovery Act directing the 2nd respondent to attach the properties shown in the order, without issuing any notice to them.

Heard the learned counsel for both the parties.

In spite of the fact that notices are served on the respondents, they have not chosen to file counter affidavit.

The grievance of the petitioners is that the 1st respondent passed the distraint order dated 23.11.1998 without issuing any notice to them. Hence, this Court is of the view that the order impugned is liable to be set aside.

In the result, the writ petition is allowed setting aside the distraint order, dated 23.11.1998. However, the 1st respondent-Mandal Revenue Officer is hereby directed to issue notice to the petitioners and pass appropriate orders in accordance with law. No

costs.

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04.04.2007

bcj